

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

KARLENE ROSE,

Plaintiff,

v.

ROBERT WILLOUGHBY,

Defendant.

No. 21-CV-769 (KMK)

ORDER

KENNETH M. KARAS, United States District Judge:

Plaintiff Karlene Rose (“Plaintiff”) brings this action under the Fair Labor Standards Act and New York Labor Law alleging that while Plaintiff was employed at Carib Fish Market & Grill—a restaurant owned and operated by Robert Willoughby (“Defendant”)—Defendant failed to pay her minimum wage, overtime, and spread of hours pay, and failed to provide her with pay statements. (*See generally* Compl. (Dkt. No. 1).)¹ On March 9, 2022, Plaintiff filed a Proposed Clerk’s Certificate of Default and a supporting affidavit based on Defendant’s failure to file an answer, (*see* Dkt. Nos. 45, 46), and on the same day, the Clerk of Court notified Plaintiff’s counsel that the filing was deficient, (*see* Dkt.). To date, Plaintiff has failed to properly apply for a Clerk’s Certificate of Default.

Plaintiff shall properly apply for a Clerk’s Certificate of Default by no later than May 25, 2022, and shall file for the entry of default judgment against Defendant in accordance with the Court’s Individual Rules of Practice for Default Judgment Proceedings by no later than one week after receiving the Clerk’s Certificate of Default. If Plaintiff fails to comply with these time

¹ Plaintiff also initially named Carib Fish Market & Grill as a defendant, but because this entity no longer exists, it was dismissed on November 17, 2021. (*See* Dkt. No. 37.)

limitations, Plaintiff will risk dismissal of this Action for failure to prosecute. *See, e.g., Rios v. Zion Farm LLC*, No. 19-CV-4363, 2021 WL 2383026, at *1 (S.D.N.Y. June 9, 2021) (dismissing case for failure to prosecute where “[the] [p]laintiff was directed to move for a default judgment . . . or show cause why th[e] action should not be dismissed . . . for failure to prosecute” and “[the] [p]laintiff [took] no action”).

SO ORDERED.

Dated: May 17, 2022
White Plains, New York



KENNETH M. KARAS
United States District Judge